

CHILTON & MEDLEY PLC



Tax Concerns of Non-profit Organizations

By

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CHILTON & MEDLEY
CERTIFIED PUBLIC ACCOUNTANTS

MAYOR'S SUMMIT ON NEIGHBORHOODS

CHILTON & MEDLEY PLC

- Founded in 1988
- 10 partners
- 52 CPAs
- 100+ employees including affiliates
- Ranked #1 CPA firm in 2006 & 2007 Business First Book of Lists
- Small Business Services partner: ChiSource Accounting Services



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MAYOR'S SUMMIT ON NEIGHBORHOODS

NON-PROFIT ORGANIZATIONS

- Many different types
- Tax exempt status
- Public policy
- Private Inurement

MISSION

- Establish & regularly review
- Adopted by board of directors
- Why charity exists
- What it hopes to accomplish
- What activities it will undertake

ORGANIZATIONAL DOCUMENTS

- Articles of Incorporation
- By-Laws
- Organized exclusively for exempt (charitable) purpose
- Actual activities of the organization are consistent with organizing documents

GOVERNING BODY



- Active and engaged
- Balanced
- Appropriate Size
- Independent

PUBLIC CHARITIES

- 501 (c)(3) organizations
- Exempt from income taxes
- Operated primarily to provide a public benefit
- Donations are tax deductible
- Form 1023

PRIVATE FOUNDATIONS



Small group of donors

- Examples
 - Humana Foundation
 - Bill & Melinda Gates Foundation
 - KY Derby Museum

PRIVATE FOUNDATIONS (CONT'D)

- Private foundations pay an excise tax on investment income
- Must distribute 5% of the fair value of their assets each year
- Benefit other charities
- More closely scrutinized by the IRS

PUBLIC CHARITIES

- Operated for the public benefit not private benefit
- Broad public support
- Exempt from tax
 - Income, except UBI
 - Sales taxes on purchases
 - Property Taxes
 - FUTA

PUBLIC CHARITIES (CONT'D)

- Cannot implement policies that contravene public policy
- No discriminatory policies
- No involvement in political campaigns
- Some lobbying is OK
- Grassroots education is OK
- Donations are deductible
- No strings attached

FILING REQUIREMENTS

- No change for 990-EZ
- Form 990 N – Electronic Postcard
- Graduated Compliance
 - 2008 Form 990 for organizations with gross receipts in excess of \$1 million or total assets over \$2.5 million
- 2009 Form 990, organizations with gross receipts over \$500,000 or total assets over \$1.25 million
- 2010 Form 990, organizations with gross receipts over \$200,000 or total assets over \$500,000

UNRELATED BUSINESS INCOME

Income from an activity that is:

- A trade or business
- Regularly carried on
- Not related to the organization's exempt purpose

Subject to Federal Income Tax

UNRELATED BUSINESS INCOME (CONT'D)

Exclusions:

- Substantial use of volunteer labor
- Convenience exception
- Donated property sales
- Trade shows
- Bingo and other games of chance
- Qualified sponsorship payments
- Others

UNRELATED BUSINESS INCOME (CONT'D)

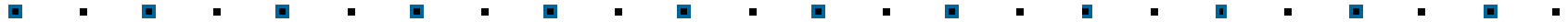
How much UBI is too much?

- Excessive UBI threatens organization's exemption
- General guidance – 30%
- For-profit subsidiary

PRIVATE INUREMENT

- Organization must operate exclusively to further a public interest
- Private inurement is generally benefit conferred on officers, directors or creators

PRIVATE INUREMENT (CONT'D)



Examples:

- Excessive compensation
- Lending without adequate security or reasonable return
- Purchasing property at greater than fair value
- Selling property at less than fair value
- Making services available on a preferential basis

PUBLIC INSPECTIONS

Documents:

- Exempt Application
- Determination letter
- Form 990 (for a period of three years from the date filed)
 - Does not include the disclosure of the names and addresses of contributors
 - Form 990-T

*www.guidestar.org The National Database of Nonprofit Organizations


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IRS CIRCULAR 230 DISCLOSURE:

As a result of perceived abuses, the Treasury has recently promulgated Regulations for practice before the IRS. These Circular 230 regulations require all accountants to provide extensive disclosure when providing certain written tax communications to clients. In order to comply with our obligations under these Regulations, we would like to inform you that any advice given in this presentation, including any attachments, cannot be used to avoid penalties which the IRS might impose, because we have not included all of the information required by Circular 230, nor have we performed services that rise to this level of assurance.

THANK YOU!



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